

COUNTY NOTICES PURSUANT TO A.R.S. § 49-112

Because each county writes rules and regulations in its own unique style, County Notices published in the *Register* do not conform to the standards of the *Arizona Rulemaking Manual*. With the exception of minor formatting changes, the rules (including subsection labeling, spelling, grammar, and punctuation) are reproduced as submitted.

NOTICE OF FINAL RULEMAKING MARICOPA COUNTY AIR POLLUTION CONTROL REGULATIONS P-27 VEHICLE PARKING AND USE ON UNSTABILIZED VACANT LOTS

[M08-145]

PREAMBLE

1. Sections Affected

P-27 Vehicle Parking and Use on Unstabilized Vacant Lots

Rulemaking Action

New

2. Statutory authority for the rulemaking:

Authorizing Statute: A.R.S. § 49-474.01(A)(7)

Implementing Statute: A.R.S. § 11-251.05

3. The effective date of the rule:

Date of Adoption: February 20, 2008

4. List of all previous notices appearing in the Register addressing the rulemaking:

Notice of Rulemaking Docket Opening: 13 A.A.R. 3375, October 5, 2007

Notice of Proposed Rulemaking: 13 A.A.R. 3711, November 2, 2007

5. Name and address of department personnel with whom persons may communicate regarding the rulemaking:

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6. An explanation of the rule, including the department's reasons for initiating the rule:

In an effort to help Maricopa County attain the National Ambient Air Quality Standards for particulate matter less than 10 microns (PM₁₀), the Arizona Legislature recently enacted Senate Bill 1552 which provides measures committed to reduce PM₁₀ emissions. One of these measures prohibits vehicle parking and use on unstabilized vacant lots (A.R.S. §§ 9-500.27 and 49-474.01(A)(7)). Responding to this commitment, Maricopa County Air Quality Department prepared a new ordinance (P-27) that restricts vehicle parking and use on unstabilized vacant lots, and imposes a penalty to the vehicle operator for violation of the ordinance. The penalty consists of a Class 3 misdemeanor and requires the vehicle operator to attend at least eight but not more than twenty-four hours of a community restitution course related to the off-highway operations of motor vehicles.

The measures in this ordinance will help reduce PM₁₀ emissions which are required for this region to implement a Five Percent Plan for PM₁₀. Since the region did not attain the PM₁₀ standard in December, 2006, a Five Percent Plan for PM₁₀ demonstrating 5% reductions per year in emissions was submitted to EPA.

Section By Section Explanation of the Ordinance:

SECTION 1 - GENERAL

Section 1 - A Includes the ordinance purpose which restricts all vehicle parking and use on unstabilized vacant lots.

Section 1 - B Includes applicability of the ordinance to vehicle parking and use in the unincorporated sections of Area A that are within Maricopa County.

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SECTION 2 - DEFINITIONS

- Section 2 - A Includes the ordinance definition of the legal land description of Area A in the federal township-range format so that it coincides with the description of Area A found in Arizona Revised Statutes (A.R.S.) §49-541(1).
- Section 2 - B Includes the ordinance definition of a designated or opened trail system which is designated or opened by a government land management agency.
- Section 2 - C Includes the ordinance definition of a road or highway which is maintained by a municipality and open for public use for purposes of vehicular travel. The definition includes designated or opened trail systems and surface roads regardless of surface composition and any other property dedicated or otherwise reserved for public or private street uses, as evidenced by a recorded document, or having thereon a public easement for such use.
- Section 2 - D Includes the ordinance definition of vacant lots which coincides with the vacant lot definition found in Maricopa County Rule 310.01. This other definition defines vacant lots as land that is undeveloped, contains no buildings or structure, partially developed lots, or not a road or highway.
- Section 2 - E Includes ordinance definition of a vehicle as a self propelled device excluding devices moved by human power or used on tracks.

SECTION 3 - REQUIREMENTS

- Section 3 - A Describes ordinance restriction of vehicle parking and use on unstabilized vacant lots.

Section 4 - VIOLATIONS, NOTICES, AND PENALTIES

- Section 4 - A Includes penalty of class 3 misdemeanor for violation of ordinance.
- Section 4 - B Includes penalty for violation, in addition to or in lieu of a fine, an order to perform at least eight but not more than twenty-four hours of a community restitution course related to the off-highway operation of motor vehicles.
- Section 4 - C Includes, for violations of this ordinance, use of a uniform traffic ticket and complaint prescribed by the rules of procedure in civil traffic cases adopted by the Supreme Court.

Section 5 - EXEMPTIONS

- Section 5 - A Includes exemption for the property owner if the exemption does not violate any other applicable laws.
- Section 5 - B Includes exemption for a site with a permit issued by the Control Officer for the control of fugitive dust from dust generating operations.

7. Demonstration of compliance with A.R.S. § 49-112:

Under A.R.S. § 49-479(C), a county may not adopt a rule or ordinance that is more stringent than the rules adopted by the Director of the Arizona Department of Environmental Quality (ADEQ) for similar sources unless it demonstrates compliance with the requirements of A.R.S. § 49-112.

A.R.S. § 49-112 (A) is outlined below:

When authorized by law, a county may adopt a rule, ordinance, or other regulation that is more stringent than or in addition to a provision of this title or rule adopted by the director or any board or commission authorized to adopt rules pursuant to this title if all the following conditions are met:

1. The rule, ordinance or other regulation is necessary to address a peculiar local condition;
2. There is credible evidence that the rule, ordinance or other regulation is either:
 - (a) Necessary to prevent a significant threat to public health or the environment that results from a peculiar local condition and is technically and economically feasible
 - (b) Required under a federal statute or regulation, or authorized pursuant to an intergovernmental agreement with the federal government to enforce federal statutes or regulations if the county rule, ordinance or other regulation is equivalent to federal statutes or regulations.

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The proposed Maricopa County Ordinance - P-27 - is adopted under Arizona Revised Statutes § 49-474.01(A)(7) and recently enacted in Senate Bill 1552. Therefore, a demonstration of compliance with A.R.S. § 49-112 as required by the County's general grant of rulemaking and ordinance authority in A.R.S. § 49-479 does not apply to this action.

8. Reference to any study relevant to the rule that the agency reviewed and either relied or did not rely on in its evaluation or justification for the rule; where the public may obtain or review each study; all data underlying each study, and any analysis of the study and other supporting material:

Not applicable

9. Showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

10. Summary of the economic, small business, and consumer impact:

This ordinance provides a disincentive to the operators of vehicles to trespass on vacant lots that are unstabilized and saves property owners from spending money to repair damage to their property from vehicle activity. Secondly, the measures in this ordinance help obtain the air quality benefits and consequent health benefits for the community from the lower emissions of Particulate Matter. This section will look at:

- Emission reductions of particulate matter from this P-27 ordinance implementation; and
- Identification of the costs and potential physical health, welfare benefits.

(a) Emission Reductions

Fugitive dust particulate emissions from vehicles operating on unpaved areas were estimated by Maricopa Association of Governments (MAG) based on the acres of disturbed land devoted to unpaved parking areas. The specific methodology, calculations, and assumptions for each component of the emissions calculation for vehicular use and parking on vacant lots is described in the Maricopa County 2005 Periodic PM₁₀ Emission Inventory for the Maricopa County Non-attainment Area- Section 3.5.9. Factors used to calculate emission rates for unpaved parking areas are EPA's AP-42 emission rates and GIS applications to the 2004 MAG land use data of the total acres of vacant land in the Maricopa County portion of the PM₁₀ non-attainment area. The results for the PM₁₀ non-attainment areas and Maricopa County are summarized in tons per year.

According to the Maricopa County 2005 Periodic PM₁₀ Emission Inventory (§3.5.9) the Maricopa County Nonattainment Area emissions from vehicles traveling in unpaved parking areas are as follows:

- PM₁₀ NAA=3009 tons/yr annual emissions.
- PM₁₀ NAA=16,490 lbs/day daily emissions.

There are two sources of PM₁₀ emissions from vacant lots:

1. Trespass trips from the vehicle;
2. Windblown emissions from the disturbed area on the lot.

Emissions from two weekly trips by light-duty vehicles are estimated to produce 11.6 pounds of PM₁₀ per year on a 3-acre lot. By eliminating trespass trips, the emission reduction achieved by this measure would be 11.6 pounds of PM₁₀ per year per average vacant lot. Windblown emissions are estimated to be 75.8 pounds per year for a lot where the disturbed area is limited to a single 20-foot wide track across the lot. By eliminating these two sources, the emission reduction achieved by this ordinance would be 87.4 pounds of PM₁₀ per year per average vacant lot. (MAG, Analysis of Particulate Control Measures; Cost Effectiveness, April 18, 2007)

There are over 4,000 vacant lots in the Maricopa County PM₁₀ nonattainment area which translates to a reduction of 174 tons of PM₁₀ per year or a 5.8% reduction of the total non-attainment area PM₁₀ emissions obtained from eliminating vehicle parking and use on vacant lots. (2005 Periodic PM₁₀ Emission Inventory Maricopa County, AZ §3.2.6

(b) Costs and Health Benefits

Minimum costs to restrict the vehicle owners from trespassing on vacant lots were determined from a review published in the Salt River PM₁₀ State Implementation Plan (SIP) prepared by Arizona Department of Environmental Quality (ADEQ). After study it was determined that the installation of a rock barrier would be the least expensive method of prohibiting vehicle parking and use on vacant lots. The cost of installing a rock boulder barrier was estimated to be

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\$1,342 per year per lot, based on a survey conducted by ADEQ in support of the Salt River SIP. There are over 4,000 vacant lots in the Maricopa County PM₁₀ nonattainment area. The rock barrier for each lot is assumed to completely eliminate trespass emissions on vacant lots at potential cost to lot owners of \$5,368,000.

Community health benefits result from the implementation of this proposed P-27 ordinance when ambient emissions of Particulate Matter are reduced. The emission reductions of PM reduce the physical health and welfare effects and result in a number of economic and social consequences, including:

1. Medical Costs: These include personal out-of-pocket expenses of the affected individual (or family), plus costs paid by insurance or Medicare, for example.
2. Work loss: This includes lost personal income, plus lost productivity whether the individual is compensated for the time or not. For example, some individuals may perceive no income loss because they receive sick pay, but sick pay is a cost of business and reflects lost productivity.
3. Increased costs for chores and care giving: These include special care giving and services that are not reflected in medical costs. These costs may occur because some health effects reduce the affected individual's ability to undertake some or all normal chores, and she or he may require care giving.
4. Other social and economic costs: These include restrictions on or reduced enjoyment of leisure activities, discomfort or inconvenience, pain and suffering, anxiety about the future, and concern and inconvenience to family members. There are many health benefits for the general public as a result of the enforcement of this Particulate Matter control measure. Health benefits can be expressed as avoided cases of PM related-health effects and assigned a dollar value.

Summary

There are over 4,000 vacant lots in the Maricopa County PM₁₀ nonattainment area which translates to a reduction of 174 tons of PM₁₀ each year from the P-27 Ordinance measures. This is 5.8% of the total non-attainment area PM₁₀ emissions reduced from eliminating vehicle parking and use on vacant lots. (2005 Periodic PM₁₀ Emission Inventory Maricopa County, AZ §3.2.6). A good portion of the dollar savings and benefits observed from the proposed P-27 ordinance measures is from health benefits which can be expressed as avoided cases of PM related-health effects and the associated costs of care. (U.S. EPA, "The Benefits and Costs of the Clean Air Act 1990 to 2010," Chapter 6, "Economic Valuation of Human Health Effects,").

The P-27 ordinance could increase the Maricopa County Air Quality inspection program monitoring, record keeping and reporting burdens. These additional inspection and judicial costs are likely to be offset by the considerable reduction in burdens on community health care, as described above. This decreased burden of community health care helps offset increased public agency costs and can also be expressed as avoided cases of PM related-health effects. The 5.8% PM₁₀ emission reduction resulting from the implementation of this proposed Ordinance equates to millions of dollars per year cost savings from community health benefits from the lower emissions of Particulate Matter. (U.S. EPA, "The Benefits and Costs of the Clean Air Act 1990 to 2010," Chapter 6, "Economic Valuation of Human Health Effects,").

11. Name and address of department personnel with whom persons may communicate regarding the rulemaking:

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12. Description of the changes between the proposed rule, including supplemental notices and final rule:

Section 2(C): Added to the definition of road or highway "any other property dedicated or otherwise reserved for public or private street uses, as evidenced by a recorded document, or having thereon a public easement for such use". The definition of road or highway now reads: "The entire width between the boundary lines of every way publicly maintained by the federal government, a city, a town or a county if any part of the way is generally open to the use of the public for purposes of vehicular travel. For purposes of this ordinance, the term "road or highway" also includes designated or opened trail systems, service roads regardless of surface composition, and any other property dedicated or otherwise reserved for public or private street uses, as evidenced by a recorded document, or having thereon a public easement for such use."

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13. A summary of the comments made regarding the rule and the department response to them:

No formal comments were received.

14. Any other matters prescribed by the statute that are applicable to the specific department or to any specific rule or class of rules:

Not applicable

15. Incorporation by reference and their location in the rule:

None

16. Was this rule previously an emergency rule?

No

17. The full text of the rule follows:

**MARICOPA COUNTY AIR POLLUTION CONTROL REGULATIONS
P-27
VEHICLE PARKING AND USE ON UNSTABILIZED VACANT LOTS**

SECTION 1 - GENERAL

- A. PURPOSE
- B. APPLICABILITY

SECTION 2 - DEFINITIONS

- A. AREA A
- B. DESIGNATED OR OPENED TRAIL SYSTEM
- C. ROAD OR HIGHWAY
- D. VACANT LOTS
- E. VEHICLE

SECTION 3 - REQUIREMENTS

- A. RESTRICTED VEHICLE PARKING AND USE

SECTION 4 - VIOLATIONS, NOTICES, AND PENALTIES

SECTION 5 - EXEMPTIONS

**MARICOPA COUNTY AIR POLLUTION CONTROL REGULATIONS
P-27
VEHICLE PARKING AND USE ON UNSTABILIZED VACANT LOTS**

SECTION 1 - GENERAL

- A. **PURPOSE:** This ordinance restricts all vehicle parking and use on unstabilized vacant lots.
- B. **APPLICABILITY:** This ordinance applies to vehicle parking and use in the unincorporated sections of Area A that is within Maricopa County.

SECTION 2 - DEFINITIONS: For the purpose of this ordinance, the following definitions shall apply:

- A. **AREA A** - The part of the greater Phoenix metropolitan area where specific pollution control programs are in place for ozone, carbon monoxide, and particulate matter. As defined in Arizona Revised Statutes (A.R.S.) §49-541(1), the area in Maricopa County delineated as follows:
 - Township 8 North, Range 2 East and Range 3 East
 - Township 7 North, Range 2 West through Range 5 East
 - Township 6 North, Range 5 West through Range 6 East
 - Township 5 North, Range 5 West through Range 7 East
 - Township 4 North, Range 5 West through Range 8 East
 - Township 3 North, Range 5 West through Range 8 East
 - Township 2 North, Range 5 West through Range 8 East
 - Township 1 North, Range 5 West through Range 7 East
 - Township 1 South, Range 5 West through Range 7 East
 - Township 2 South, Range 5 West through Range 7 East
 - Township 3 South, Range 5 West through Range 1 East

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Township 4 South, Range 5 West through Range 1 East

- B. **DESIGNATED OR OPENED TRAIL SYSTEM** - Roads or routes that are part of a system of trails and that are designated or opened by a government land management agency by order, sign, and/or map approved by such agency.
- C. **ROAD OR HIGHWAY** - The entire width between the boundary lines of every way publicly maintained by the federal government, a city, a town or a county if any part of the way is generally open to the use of the public for purposes of vehicular travel. For purposes of this ordinance, the term "road or highway" also includes designated or opened trail systems and service roads regardless of surface composition, and any other property dedicated or otherwise reserved for public or private street uses, as evidenced by a recorded document, or having thereon a public easement for such use.
- D. **VACANT LOTS** - Any of the following described in Section 2(D)(1) through Section 2(D)(4) of this ordinance:
 - 1. An unsubdivided or undeveloped tract of land.
 - 2. A subdivided residential, industrial, institutional, governmental, or commercial lot that contains no approved or permitted buildings, structures, or uses of a temporary or permanent nature.
 - 3. A partially developed residential, industrial, institutional, governmental, or commercial lot.
 - 4. For the purposes of this ordinance, a vacant lot is not a road or highway.
- E. **VEHICLE** - A self propelled device and its appurtenances, excluding devices moved by human power or used exclusively on stationary rails or tracks.

SECTION 3 - REQUIREMENTS

- A. **RESTRICTED VEHICLE PARKING AND USE:** A person shall not park or use a vehicle on an unstabilized vacant lot within the unincorporated sections of Area A in Maricopa County.

SECTION 4 - VIOLATIONS, NOTICES, AND PENALTIES

- A. A person who violates this Ordinance is guilty of a class 3 misdemeanor.
- B. In addition to or in lieu of a fine pursuant to this section, a judge may order the person to perform at least eight but not more than twenty-four hours of a community restitution course related to the off-highway operation of motor vehicles.
- C. For violations of this Ordinance, the Enforcement Officer shall use a uniform traffic ticket and complaint prescribed by the rules of procedure in civil traffic cases adopted by the Supreme Court. The Enforcement Officer may issue a citation to persons in violation of this ordinance.

SECTION 5 - EXEMPTIONS

- A. The property owner, person entitled to immediate possession of the property, or invitee who has lawful authority may operate such vehicles if such use does not violate any other applicable laws.
- B. Any site that has been issued a permit by the Control Officer for the control of fugitive dust from dust generating operations.

NOTICE OF EXPEDITED RULEMAKING

PURSUANT TO A.R.S. § 49-471.01 et seq.

PINAL COUNTY AIR QUALITY CONTROL DISTRICT

[M08-147]

- 1. **Preamble**
- 2. The Pinal County Air Quality Control District, an operating division of Pinal County, proposes that the Board of Supervisors adopt new rules in response to recent legislative mandates. Those mandates require dust-proofing or stabilization for certain parking, ingress and egress areas in that portion of Pinal County lying within the Phoenix Planning Area PM10 nonattainment area. See A.R.S. §§ 49-474.01(A)(5) and (A)(6). The mandates also require restrictions on vehicle parking and use on unstabilized lots in the same area. See A.R.S. § 49-474.01(A)(11). Geographically, the proposed limitations apply in the Apache Junction Township, Township 1 North, Range 8 East, Gila and Salt River Base and Meridian ("T1N R8E").
- 3. Those wishing further information regarding any aspect of this proposal may contact Scott DiBiase, Planning Manager, Pinal County Air Quality, 31 N. Pinal St., Building F, Florence, AZ, 520-866-6969. To the extent possible, the District will also post information on the County's website, www.co.pinal.az.us, under the "air quality" link.
- 4. The Board of Supervisors has authority to adopt air quality rules. A.R.S. § 49-479. Given the obligatory nature of the action, this rule-adoption will follow the expedited rule-making process defined in A.R.S. § 49-471.08. Following

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publication of a notice of proposed rulemaking and a 30 day public comment period, the proposal along with a summary of any comments received will be submitted to the Board of Supervisors for consideration and possible adoption. The date and location for the hearing-of-adoption before the Board of Supervisors will be separately scheduled and noticed in accord with the requirements of A.R.S. § 49-479 and 40 CFR 51.102. Tentatively, that hearing before the Board of Supervisors is scheduled for May 14, 2008.

5. Given that this proposal responds to a statutory mandate, there are no supporting studies nor has the District prepared an economic, small business or consumer impact discussion. There are no prior register notices pertaining to this proposal.
6. If adopted, these revisions will take effect and become enforceable upon adoption by the Board of Supervisors, with the exception of deferred enforcement where allowed by statute.
7. To clearly identify those rules that will be presented for inclusion in the Arizona State Implementation Plan, corresponding revisions to §1-1-105 are also included. EPA guidance precludes SIP-approval for rules that allow unfettered Control-Officer discretion in defining alternative control requirements. See EPA guidance entitled "Review of State Implementation Plans and Revisions for Enforceability and Legal Sufficiency," Michael S. Alushin, et al., Sept. 23, 1987. To the extent that proposed SIP rules §§4-4-110, 4-5-160 and 4-6-200.B all allow for "control officer discretion" in defining case-by-case dustproofing and stabilization methods, in each case that latitude is objectively limited by the quantifiable and replicable limitation on allowable trackout from the subject parcel.
8. Pursuant to A.R.S. § 49-471.08(A)(2), Donald P. Gabrielson, the Control Officer for the District, finds that Laws 2007, Chapter 292, § 16 mandates that within the affected area the County require: maintenance of dustproof surfacing for parking, maneuvering, ingress and egress areas at developments other than residential buildings with four or fewer units; maintenance of paving or stabilization for parking, maneuvering, ingress and egress areas three thousand square feet or more in size and located at smaller residential developments; and restriction of vehicle parking and use on unpaved or unstabilized vacant lots. The Control Officer finds that the proposed rules are substantially identical to the sense, meaning and effect of the underlying statutory mandate.

9. Text of Proposed Rule Revisions

New rules are identified as such. Changes to existing rules are shown by strike-through and underlining.

Chapter 1 - General Provisions and Definitions (Existing)

Article 1 - Provisions (Existing)

1-1-105. SIP list (Existing)

- A. As a declaration of Board policy rather than a rule, and subject to the limitations of paragraphs B. and C. of this section, the Board of Supervisors expressly designates the following list of sections within this Code, to be presented to the Governor of Arizona for transmittal to the Administrator of the EPA with a request that they be included as elements in the Arizona SIP:
 1. Chapter 1
 - a. Article 1.(As amended 5/14/97 and 5/27/98), except for §§1-1-105 and 1-1-107.
 - b. Article 2 (As amended 5/14/97 and 7/12/00) except for §1-2-110.
 - c. Article 3. (As amended 5/14/97, 5/27/98 and 10/27/04, except for §1-3-130 and the definition in §1-3-140.82 (10/12/95) of "maximum achievable control technology.")
 2. Chapter 2
 - a. Article 1. (As amended 10/12/95).
 - b. Article 2. (As amended 5/14/97).
 - c. Article 3. (As amended 10/12/95).
 - d. Article 4. (As amended 10/12/95).
 - e. Article 5. (As amended 10/12/95).
 - f. Article 6. (As amended 10/12/95).
 - g. Article 7. (As amended 10/12/95).
 - h. Article 8. (As amended 5/18/05).
 3. Chapter 3
 - a. Article 1. (As amended 5/14/97, and 5/27/98 and 7/12/00), excluding:
 - i. §3-1-020
 - ii. §3-1-045
 - iii. §3-1-080
 - iv. §3-1-100

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- b. Article 2. (As amended 10/12/95, 5/27/98 and 7/29/98).
- c. Article 3. (As amended 10/12/95).
- d. Article 8. (As amended 10/12/95 and 10/27/04).
- 4. Chapter 4
 - a. Article 1. (As amended 2/22/95).
 - b. Article 2. (As amended 5/14/97, 7/12/00 and 10/27/04, excluding §§4-2-020 and 4-2-030).
 - c. Article 4. (As amended _____, 2008.)
 - d. Article 5. (As amended _____, 2008.)
 - e. Article 6. (As amended _____, 2008.)
- B. Notwithstanding the approval as elements of the SIP of those provisions of the Code identified in paragraph A of this section, those provisions, save §3-1-084 which shall be expressly exempted from the limitation of this paragraph, shall operate as elements of the SIP only insofar as they pertain to:
 - 1. "construction," as defined in Nov. '93 Code §1-3-140.28; or
 - 2. "modification," as defined in Nov. '93 Code §1-3-140.85; and
- C. Notwithstanding the approval as elements of the SIP of those provisions of the Code identified in paragraph A of this section, neither those provisions nor any permit conditions imposed pursuant to those provisions shall:
 - 1. Operate as elements of the SIP insofar as they pertain to other than "conventional pollutants," as defined in §1-3-140.33;
 - 2. Operate as elements of the SIP insofar as they pertain only to a requirement arising under, or pertain to a source subject to regulation exclusively by virtue of a requirement arising under:
 - a. §111 of the Clean Air Act; or
 - b. Title IV of the 1990 amendments to the Clean Air Act; or
 - c. Title VI of the 1990 amendments to the Clean Air Act; or
 - d. Any section of this Code that is not a part of the SIP;
 - 3. Operate as an element of the SIP, at least insofar as they impose a "fee";
 - 4. Operate as an element of the SIP, at least insofar as they require a "certification";
 - 5. Operate as an element of the SIP, at least insofar as they impose obligations pertaining to "renewals";
 - 6. Operate as an element of the SIP, at least insofar as they impose requirements regarding "excess emissions"; or
 - 7. Operate as an element of the SIP, at least insofar as they impose requirements regarding "compliance plans."
- D. As a renumbering and reconciliation of previously approved SIP provisions as elements of this Code, the Board of Supervisors additionally designates the following list of sections within this Code, to be presented to the Governor of Arizona for transmittal to the Administrator of the EPA with a request that they be included as elements in the Arizona SIP without operational limitation:
 - 1. §§1-1-010.C (2/22/95) and 1-1-010.D (2/22/95) *Declaration of Policy*
 - 2. Chapter 2, Article 8 (As amended 5/14/97) *Visibility Limiting Standard*
 - 3. Chapter 3, Article 8 (2/22/95) *Open Burning*
 - 4. [Reserved]
 - 5. [Reserved]
 - 6. [Reserved]
 - 7. [Reserved]
 - 8. [Reserved]
 - 9. [Reserved]
 - 10. [Reserved]
 - 11. [Reserved]
 - 12. §5-18-740 (2/22/95) *Storage of Organic Compounds - Organic Compound Emissions*
 - 13. §5-19-800 (2/22/95) *Loading of Volatile Organic Compounds - Organic Compound Emissions*
 - 14. §5-21-920 (2/22/95) *Fossil Fuel Fired Industrial and Commercial Equipment Standard Applicability*
 - 15. §5-21-930 (2/22/95 and 7/12/00) *Fossil Fuel Fired Industrial and Commercial Equipment Particulate Emission Standard*
 - 16. §5-22-950 (2/22/95) *Fossil Fuel Fired Steam Generator Standard Applicability*
 - 17. §5-22-960 (2/22/95) *Fossil Fuel Fired Steam Generator Sulfur Dioxide Emission Limitation*
 - 18. §5-24-1030.F (2/22/95) *Generally Applicable Federally Enforceable Minimum Standard of Performance - Organic Compound Emissions*
 - 19. §5-24-1030.I (2/22/95) *Generally Applicable Federally Enforceable Minimum Standard of Performance - Carbon Monoxide*
 - 20. §5-24-1032 (2/22/95) *Federally Enforceable Minimum Standard of Performance - Process Particulate Emissions*

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21. §5-24-1040 (2/22/95) *Carbon Monoxide Emissions - Industrial Processes*
22. §5-24-1045 (2/22/95) *Sulfite Pulp Mills - Sulfur Compound Emissions*
23. §5-24-1050 (2/22/95, as amended June 20, 1996) *Reduced Sulfur Emissions - Default Limitation*
24. §5-24-1055 (2/22/95) *Pumps and Compressors - Organic Compound Emissions*

Chapter 4. - Emissions from Existing and New Non-Point Sources

Article 4 - Nonattainment Area Rules; Dustproofing for Commercial Parking, Drives and Yards (NEW)

§4-4-100. Dustproofing for Commercial Parking, Drives and Yards; Applicability (NEW)

A. Geographic Applicability.

The "affected area" under this rule includes the Pinal-County-portion of the Phoenix Planning Area Serious PM₁₀ nonattainment Area, identified as Township 1 North, Range 8 East, Gila & Salt River Base and Meridian.

B. Affected Parcels; Commercial Property.

Property subject to this rule:

1. Includes any parcel, contiguous parcels, or any proximate combination of parcels actually used for commercial purposes, including retail, office, meeting, governmental, industrial, service-business or commercial storage purposes;
2. Includes any parcel, contiguous parcels, or any proximate combination of parcels actually used in a coordinated fashion and having five or more residential rental units;
3. Includes any common parking area at an otherwise affected parcel; and
4. Excludes any right-of-way legally established and actually maintained for travel by the public or to provide vehicular access to public utilities.
5. Excludes earthmoving activity at a site, or that portion of a site, covered by mitigation requirements under dust registration issued by the Pinal County Control Officer.

C. Affected surfaces at a commercial property.

1. Affected surfaces include any areas utilized on a regular basis for parking, maneuvering or ingress and egress of on- or off-road vehicles. Access lanes and working surfaces for vehicles shall qualify as affected surfaces.
2. Undisturbed surfaces are not affected surfaces, but only if those undisturbed surfaces are fenced or otherwise clearly distinguished from affected surfaces. Delineated long-term storage stalls, where a vehicle, trailer or other item is stored and not normally removed and replaced more than once in a sixty-day period shall also be considered undisturbed surfaces.

§4-4-110. Control Requirement (NEW)

A. On and after the effective date, the owner and/or operator of any commercial property shall install and maintain permanent dustproof surfacing for all affected surfaces. For purposes of this rule, "owner or operator" means any person who owns, leases, operates, controls, or supervises an affected area.

B. For purposes of this rule, permanent dustproofing shall consist of one of the following, implemented in a manner that meets the maintenance standard of this rule:

1. Paving with asphaltic concrete;
2. Paving with Portland cement based concrete;
3. Surfacing with a penetrating asphalt and a gravel surface, commonly known as chip sealing;
4. Surfacing with and uniformly maintaining a two-inch deep layer of rock having a nominal size of 1/4" or larger;
5. Surfacing with a two-inch deep layer of recycled asphalt;
6. Surfacing with any other surface treatment that has been approved by the Pinal County Control Officer; or
7. Initially, and at such other times as may be requested by the Control Officer, demonstrating to the satisfaction of the Pinal County Control Officer on a form as required by the Control Officer and pursuant to a test method approved by the Control Officer, that the average threshold friction velocity of the native soil surface, corrected for non-erodible elements, is at least 100 cm/second.

C. Maintenance

Permanent dustproofing shall be maintained in a manner that both:

1. Prevents visible track-out; and

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2. Meets the performance standards of Code §4-2-040.A and .B, requiring reasonable precautions to effectively prevent vehicle-generated dust from becoming airborne.
§4-4-120. Deferred enforcement date (NEW)

The Control Officer shall commence enforcement of the requirements of this Article no sooner than October 1, 2008.

Article 5 - Nonattainment Area Rules; Stabilization for Residential Parking and Drives (NEW)

§4-5-150. Stabilization for Residential Parking and Drives; Applicability (NEW)

A. Geographic Applicability.

The "affected area" under this rule includes the Pinal-County-portion of the Phoenix Planning Area Serious PM₁₀ nonattainment Area, identified as Township 1 North, Range 8 East, Gila & Salt River Base and Meridian.

B. Affected Parcels; Residential Property.

Property subject to this rule:

1. Includes any parcel, contiguous parcels, or any proximate combination of parcels actually used coordinated fashion and having four or fewer residential rental units;
2. Includes any common parking area at an otherwise affected parcel;
3. Excludes any right-of-way legally established and actually maintained for travel by the public or to provide vehicular access to public utilities; and
4. Excludes earthmoving activity at a site, or that portion of a site, covered by mitigation requirements under dust registration issued by the Pinal County Control Officer.

C. Affected Surfaces at a Residential Property.

1. Affected surfaces include any areas in excess of 3,000 square feet utilized on a regular basis for parking, maneuvering or ingress and egress of on- or off-road vehicles.
2. Undisturbed surfaces are not affected surfaces, but only if those undisturbed surfaces are fenced or otherwise clearly distinguished from affected surfaces. Delineated long-term storage stalls, where a vehicle, trailer or other item is stored and not normally removed and replaced more than once in a sixty-day period shall also be considered undisturbed surfaces.

§4-5-160. Control Requirement (NEW)

- A. On and after the effective date, the owner and/or operator of any residential property shall install and maintain stabilized surfacing for all affected surfaces. For purposes of this rule, "owner or operator" means any person who owns, leases, operates, controls, or supervises an affected area.
- B. For purposes of this rule, a stabilized surface shall consist of one of the following, implemented in a manner that meets the maintenance standard of this rule:
 1. Paving with asphaltic concrete;
 2. Paving with Portland cement based concrete;
 3. Surfacing with a penetrating asphalt and a gravel surface, commonly known as chip sealing;
 4. Surfacing with and uniformly maintaining a two-inch deep layer of rock having a nominal size of 1/4" or larger;
 5. Surfacing with a two-inch deep layer of recycled asphalt;
 6. Watering with sufficient frequency so as to maintain a crust on the surface;
 7. Surfacing with any other surface treatment that has been approved by the Pinal County Control Officer; or
 8. Initially, and at such other times as may be requested by the Control Officer, demonstrating to the satisfaction of the Pinal County Control Officer on a form as required by the Control Officer and pursuant to a test method approved by the Control Officer, that the average threshold friction velocity of the native soil surface, corrected for non-erodible elements, is at least 100 cm/second.
- C. Maintenance
Surface stabilization shall be maintained in a manner that both:
 1. Prevents visible track-out in excess of ten feet in length; and
 2. Meets the performance standards of Code §4-2-040.A and .B, requiring reasonable precautions to effectively prevent vehicle-generated dust from becoming airborne.

§4-5-170. Deferred enforcement date (NEW)

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The Control Officer shall commence enforcement of the requirements of this Article no sooner than October 1, 2009.

Article 6 - Nonattainment Area Rules; Restrictions on Vehicle Parking and Use on Vacant Lots (NEW)

§4-6-200. Unpaved and Unstabilized Vacant Lots; Restriction on Vehicle Parking and Use; Applicability (NEW)

A. Geographic Applicability.

The "affected area" under this rule includes the PM₁₀-non-attainment-area portion of the Pinal-County-portion of Area A as defined at A.R.S. § 49-541, including:

Township 1 north, range 8 east

B. Affected Parcels; Vacant Lots.

Property subject to this rule includes any unpaved or unstabilized vacant lot. For purposes of this definition, adjoining commonly owned parcels shall be deemed a single lot. For purposes of this definition, a stabilized surface constitutes a surface that does not produce visible trackout when a vehicle leaves the lot, and shall consist of one of the following:

1. Paving with asphaltic concrete;
2. Paving with Portland cement based concrete;
3. Surfacing with a penetrating asphalt and a gravel surface, commonly known as chip sealing;
4. Surfacing with and uniformly maintaining a two-inch deep layer of rock having a nominal size of 1/4" or larger;
5. Surfacing with a two-inch deep layer of recycled asphalt;
6. Watering with sufficient frequency so as to maintain a crust on the surface;
7. Surfacing with any other surface treatment that has been approved by the Pinal County Control Officer; or
8. Initially, and at such other times as may be requested by the Control Officer, demonstrating to the satisfaction of the Pinal County Control Officer on a form as required by the Control Officer and pursuant to a test method approved by the Control Officer, that the average threshold friction velocity of the native soil surface, corrected for non-erodible elements, is at least 100 cm/second.

§4-6-210. Control Requirement (NEW)

1. A property owner or operator shall restrict vehicle parking and use on an unstabilized vacant lot. For purposes of this rule, "owner or operator" means any person who owns, leases, operates, controls, or supervises an affected area.
2. No person shall park any motor vehicle on any vacant unstabilized lot. The vehicle operator and all persons in whose names the vehicle is registered shall be jointly and severally prima facie responsible for any violation of this prohibition.

Article 7 - Attainment Area Rules; Restrictions on Vehicle Parking and Use on Vacant Lots (NEW)

§4-7-230. Unpaved and Unstabilized Vacant Lots; Restriction on Vehicle Parking and Use; Applicability (NEW)

A. Geographic Applicability.

The "affected area" under this rule includes the PM₁₀-attainment-area portion of the Pinal-County-portion of Area A as defined at A.R.S. § 49-541, including:

Township 1 north, range 8 east
Township 1 north, range 9 east
Township 1 south, range 8 east
Township 1 south, range 9 east
Township 2 south, range 8 east
Township 2 south, range 9 east
Township 3 south, range 7 east
Township 3 south, range 8 east
Township 3 south, range 9 east

B. Affected Parcels; Vacant Lots.

Property subject to this rule includes any unpaved or unstabilized vacant lot. For purposes of this definition, adjoining commonly owned parcels shall be deemed a single lot. For purposes of this definition, a stabilized surface constitutes a surface that does not produce visible trackout when a vehicle leaves the lot, and shall consist of one of the following:

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1. Paving with asphaltic concrete;
2. Paving with Portland cement based concrete;
3. Surfacing with a penetrating asphalt and a gravel surface, commonly known as chip sealing;
4. Surfacing with and uniformly maintaining a two-inch deep layer of rock having a nominal size of 1/4" or larger;
5. Surfacing with a two-inch deep layer of recycled asphalt;
6. Watering with sufficient frequency so as to maintain a crust on the surface;
7. Surfacing with any other surface treatment that has been approved by the Pinal County Control Officer; or
8. Initially, and at such other times as may be requested by the Control Officer, demonstrating to the satisfaction of the Pinal County Control Officer on a form as required by the Control Officer and pursuant to a test method approved by the Control Officer, that the average threshold friction velocity of the native soil surface, corrected for non-erodible elements, is at least 100 cm/second.

§4-7-240. Control Requirement (NEW)

1. A property owner or operator shall restrict vehicle parking and use on an unstabilized vacant lot. For purposes of this rule, "owner or operator" means any person who owns, leases, operates, controls, or supervises an affected area.
2. No person shall park any motor vehicle on any vacant unstabilized lot. The vehicle operator and all persons in whose names the vehicle is registered shall be jointly and severally prima facie responsible for any violation of this prohibition.